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October 9, 2006

(Via Email)
M. David Riggs
Riggs, Abney, Neal Turpen, Orbison & Lewis
502 West Fifth Street
Tulsa, Oklahoma 74119

Re: *Oklahoma, et al. v. Tyson, et al.*, Case No. 05-CV-329-TCK-SAJ, Pending in the United States District Court for the Northern District of Oklahoma
Response to State's Position With Regard to Agency Document Production

Dear David:

This correspondence is being provided to you on behalf of all of the Defendants and responds to your e-mail communication of October 6, 2006, although individual Defendants may well communicate with you about additional thoughts with regard to their specific pending discovery. We appreciate that the State is willing to work with the Defendants to schedule the production of documents responsive to the various Defendants' discovery requests. However, your e-mail raises a number of issues, several of which we believe need to be addressed at the outset of our discussion on this topic.

We are agreeable with your proposal that document inspections occur on site, at least for the four agencies identified in Peterson's Requests for Production of Documents. However, it is essential that the initial date of each inspection coincide with the deposition of the agency Custodian of Records per the Notices, as the scope of the State's efforts to identify responsive documents, their locations, and identities will be elements of the examination.

With regard to the documents you intend to produce which were identified on the State's Initial Disclosures, we are assuming that these are documents that have not been previously produced by the State. Please let me know if this assumption is incorrect.

By working toward an agreed procedure for inspecting the documents produced by the agencies, the Defendants are not waiving or agreeing to release the State from its obligation to specifically identify documents imposed by Fed. R. Civ. P. 33(d) and 34(b).

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With regard to the production requests currently pending for the State, we can appreciate that you prefer to schedule one inspection per agency to allow all of the Defendants to perform their inspections. We will endeavor to coordinate efforts and staffing from our side to accommodate this request. However, all parties should recognize that as issues develop in the case, there will be additional requests issued to the State, which may require additional inspections and productions. Likewise, the State's duty of supplementation will require additional productions.

Your proposal regarding the copying of the documents is not agreeable. The Defendants reserve the right to control the scanning/copying and numbering of the documents they select. Furthermore, the identity of the documents selected by defense counsel for copying is itself work product. We will arrange for the copy service to pickup the documents for numbering and copying. If there are particular agency concerns regarding specific currently active files that will require special treatment, we are certainly willing to discuss reasonable steps which to minimize the disruption to the agencies' operations.

We accept your recommendation that electronic discovery be delayed until the specific parameters have been worked out. There is also no problem with producing privilege logs as the documents are reviewed and produced.

We look forward to working these issues out expeditiously.

Best regards,

JOYCE, PAUL & McDANIEL, PLLC

A. Scott McDaniel

ASM:jlw

cc: Defense counsel